

Department of Early Learning

RCW 43.215

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GENERAL PROVISIONS

43.215.005

Finding — Purpose.

(1) The legislature recognizes that:

- (a) Parents are their children's first and most important teachers and decision makers;
- (b) Research across disciplines now demonstrates that what happens in the earliest years makes a critical difference in children's readiness to succeed in school and life;
- (c) Washington's competitiveness in the global economy requires a world-class education system that starts early and supports life-long learning;
- (d) Washington state currently makes substantial investments in voluntary child care and early learning services and supports, but because services are fragmented across multiple state agencies, and early learning providers lack the supports and incentives needed to improve the quality of services they provide, many parents have difficulty accessing high quality early learning services;
- (e) A more cohesive and integrated voluntary early learning system would result in greater efficiencies for the state, increased partnership between the state and the private sector, improved access to high quality early learning services, and better employment and early learning outcomes for families and all children.

(2) The legislature finds that the early years of a child's life are critical to the child's healthy brain development and that the quality of caregiving during the early years can significantly impact the child's intellectual, social, and emotional development.

(3) The purpose of this chapter is:

- (a) To establish the department of early learning;
- (b) To coordinate and consolidate state activities relating to child care and early learning programs;
- (c) To safeguard and promote the health, safety, and well-being of children receiving child care and early learning assistance;
- (d) To promote linkages and alignment between early learning programs and elementary schools and support the transition of children and families from prekindergarten environments to kindergarten;

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(e) To promote the development of a sufficient number and variety of adequate child care and early learning facilities, both public and private; and

(f) To license agencies and to assure the users of such agencies, their parents, the community at large and the agencies themselves that adequate minimum standards are maintained by all child care and early learning facilities.

(4) This chapter does not expand the state's authority to license or regulate activities or programs beyond those licensed or regulated under existing law.

[2006 c 265 § 101.]

43.215.010

Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" means any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's own home and includes the following irrespective of whether there is compensation to the agency:

(a) "Child day care center" means an agency that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours;

(b) "Early learning" includes but is not limited to programs and services for child care; state, federal, private, and nonprofit preschool; child care subsidies; child care resource and referral; parental education and support; and training and professional development for early learning professionals;

(c) "Family day care provider" means a child day care provider who regularly provides child day care and early learning services for not more than twelve children in the provider's home in the family living quarters;

(d) "Service provider" means the entity that operates a community facility.

(2) "Agency" does not include the following:

(a) Persons related to the child in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

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(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; or

(iv) Spouses of any persons named in (i), (ii), or (iii) of this subsection (2)(a), even after the marriage is terminated;

(b) Persons who are legal guardians of the child;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) Nursery schools or kindergartens that are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(f) Schools, including boarding schools, that are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children, and do not accept custody of children;

(g) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(h) Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;

(i) Any agency having been in operation in this state ten years before June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(j) An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(k) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

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(l) An agency that offers early learning and support services, such as parent education, and does not provide child care services on a regular basis.

(3) "Department" means the department of early learning.

(4) "Director" means the director of the department.

(5) "Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.215.300(1) or assessment of civil monetary penalties pursuant to RCW 43.215.300(3).

(6) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(7) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

[2006 c 265 § 102.]

43.215.020

Department created — Primary duties.

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To improve parent education and support;

(c) To carry out activities to improve the quality of early learning opportunities for young children including activities in cooperation with the private-public partnership;

(d) To administer child care and early learning programs;

(e) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

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- (f) To assist in the implementation of the private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;
- (g) To work cooperatively and in coordination with the early learning council; and
- (h) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs.

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

[2006 c 265 § 103.]

43.215.030

Director — Appointment — Salary.

(1) The executive head and appointing authority of the department is the director. The director shall be appointed by the governor with the consent of the senate, and shall serve at the pleasure of the governor. The governor shall solicit input from all parties involved in the private-public partnership concerning this appointment. The director shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate when the governor's nomination for the office of director shall be presented.

(2) The director may employ staff members, who shall be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter. The director may delegate any power or duty vested in him or her by this chapter, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW.

[2006 c 265 § 104.]

43.215.040

Director — Power and duties.

It is the intent of the legislature wherever possible to place the internal affairs of the department under the control of the director in order that the director may institute therein the flexible, alert, and intelligent management of its business that changing contemporary circumstances require. Therefore, whenever the director's authority is not specifically limited by law, the director has complete

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charge and supervisory powers over the department. The director may create such administrative structures as the director considers appropriate, except as otherwise specified by law. The director may employ such assistants and personnel as necessary for the general administration of the department. This employment shall be in accordance with the state civil service law, chapter 41.06 RCW, except as otherwise provided.

[2006 c 265 § 105.]

43.215.050

Advisory committees or councils — Travel expenses.

The director may appoint such advisory committees or councils as may be required by any federal legislation as a condition to the receipt of federal funds by the department. The director may also appoint statewide committees or councils on such subject matters as are or come within the department's responsibilities. The committees or councils shall be constituted as required by federal law or as the director may determine. Members of such state advisory committees or councils may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060. [2006 c 265 § 106.]

43.215.060

Federal and state cooperation — Rules — Construction.

In furtherance of the policy of the state to cooperate with the federal government in all of the programs under the jurisdiction of the department, such rules as may become necessary to entitle the state to participate in federal funds may be adopted, unless expressly prohibited by law. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements that are a necessary condition to state receipt of federal funds. Any section or provision of law dealing with the department that may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department.

[2006 c 265 § 107.]

43.215.070

Private-public partnership.

(1) In addition to other duties under this chapter, the director shall actively participate in a nongovernmental private-public partnership focused on supporting government's investments in early learning and ensuring that every child in the state is prepared to succeed in school and in life. Except for licensing as required by Washington state law and to the extent permitted by federal law, the director of the department of early learning shall grant waivers from the rules

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of state agencies for the operation of early learning programs requested by the nongovernmental private-public partnership to allow for flexibility to pursue market-based approaches to achieving the best outcomes for children and families.

(2) In addition to other powers granted to the director, the director may:

- (a) Enter into contracts on behalf of the department to carry out the purposes of this chapter;
- (b) Accept gifts, grants, or other funds for the purposes of this chapter; and
- (c) Adopt, in accordance with chapter 34.05 RCW, rules necessary to implement this chapter, including rules governing child day care and early learning programs under this chapter. This section does not expand the rule-making authority of the director beyond that necessary to implement and administer programs and services existing July 1, 2006, as transferred to the department of early learning under section 501, chapter 265, Laws of 2006. The rule-making authority does not include any authority to set mandatory curriculum or establish what must be taught in child day care centers or by family day care providers.

[2006 c 265 § 108.]

43.215.080

Reports to the governor and legislature.

Two years after the implementation of the department's early learning program, and every two years thereafter by July 1st, the department shall submit to the governor and the legislature a report measuring the effectiveness of its programs in improving early childhood education. The first report shall include program objectives and identified valid performance measures for evaluating progress toward achieving the objectives, as well as a plan for commissioning a longitudinal study comparing the kindergarten readiness of children participating in the department's programs with the readiness of other children, using nationally accepted testing and assessment methods. Such comparison shall include, but not be limited to, achievement as children of both groups progress through the K-12 system and identify year-to-year changes in achievement, if any, in later years of elementary, middle school, and high school education.

[2006 c 265 § 109.]

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LICENSING

43.215.200

Director's licensing duties.

It shall be the director's duty with regard to licensing:

(1) In consultation and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of child care facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages and other characteristics of the children served, variations in the purposes and services offered or size or structure of the agencies to be licensed, or because of any other factor relevant thereto;

(2) In consultation and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed under this chapter.

The minimum requirements shall be limited to:

- (a) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;
- (b) The character, suitability, and competence of an agency and other persons associated with an agency directly responsible for the care of children. In consultation with law enforcement personnel, the director shall investigate the conviction record or pending charges and dependency record information under chapter 43.43 RCW of each agency and its staff seeking licensure or relicensure. No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a provider licensed under this chapter. In order to determine the suitability of applicants for an agency license, licensees, their employees, and other persons who have unsupervised access to children in care, and who have not resided in the state of Washington during the three-year period before being authorized to care for children shall be fingerprinted. The fingerprints shall be forwarded to the Washington state patrol and federal bureau of investigation for a criminal history records check. The fingerprint criminal history records checks will be at the expense of the licensee. The licensee may not pass this cost on to the employee or prospective employee, unless the employee is determined to be unsuitable due to his or her criminal history record. The director shall use the information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies,

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- excluding parents, not required to be licensed who are authorized to care for children. Criminal justice agencies shall provide the director such information as they may have and that the director may require for such purpose;
- (c) The number of qualified persons required to render the type of care for which an agency seeks a license;
 - (d) The health, safety, cleanliness, and general adequacy of the premises to provide for the comfort, care, and well-being of children;
 - (e) The provision of necessary care and early learning, including food, supervision, and discipline; physical, mental, and social well-being; and educational and recreational opportunities for those served;
 - (f) The financial ability of an agency to comply with minimum requirements established under this chapter; and
 - (g) The maintenance of records pertaining to the care of children;
- (3) To issue, revoke, or deny licenses to agencies pursuant to this chapter. Licenses shall specify the category of care that an agency is authorized to render and the ages and number of children to be served;
- (4) To prescribe the procedures and the form and contents of reports necessary for the administration of this chapter and to require regular reports from each licensee;
- (5) To inspect agencies periodically to determine whether or not there is compliance with this chapter and the requirements adopted under this chapter;
- (6) To review requirements adopted under this chapter at least every two years and to adopt appropriate changes after consultation with affected groups for child day care requirements; and
- (7) To consult with public and private agencies in order to help them improve their methods and facilities for the care and early learning of children.

[2006 c 265 § 301.]

43.215.210

Fire protection — Powers and duties of chief of the Washington state patrol.

The chief of the Washington state patrol, through the director of fire protection, shall have the power and it shall be his or her duty:

- (1) In consultation with the director and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt recognized minimum standard requirements pertaining to each category of

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agency established pursuant to this chapter necessary to protect all persons residing therein from fire hazards;

(2) To make or cause to be made such inspections and investigations of agencies as he or she deems necessary;

(3) To make a periodic review of requirements under RCW 43.215.200(5) and to adopt necessary changes after consultation as required in subsection (1) of this section;

(4) To issue to applicants for licenses under this chapter who comply with the requirements, a certificate of compliance, a copy of which shall be presented to the department before a license shall be issued, except that an initial license may be issued as provided in RCW 43.215.280.

[2006 c 265 § 302.]

43.215.220

Licensed day care centers — Notice of pesticide use.

Licensed child day care centers shall provide notice of pesticide use to parents or guardians of students and employees pursuant to chapter 17.21 RCW.

[2006 c 265 § 303.]

43.215.2201

Licensed day care centers — Notice of pesticide use.

Licensed day care centers shall provide notice of pesticide use to parents or guardians of students and employees pursuant to chapter 17.21 RCW.

[2001 c 333 § 5. Formerly RCW 74.15.063.]

Notes: Effective date -- 2001 c 333: See note following RCW 17.21.020.

43.215.230

Articles of incorporation.

A copy of the articles of incorporation of any agency or amendments to the articles of existing corporation agencies shall be sent by the secretary of state to the department at the time such articles or amendments are filed.

[2006 c 265 § 304.]

43.215.240

Access to agencies — Records inspection.

All agencies subject to this chapter shall accord the department, the chief of the Washington state patrol, and the director of fire protection, or their designees, the right of entrance and the privilege of access to and inspection of records for the purpose of

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determining whether or not there is compliance with the provisions of this chapter and the requirements adopted under it.

[2006 c 265 § 305.]

43.215.250

License required.

(1) It is unlawful for any agency to care for children unless the agency is licensed as provided in this chapter.

(2) A license issued under chapter 74.15 RCW before July 1, 2006, for an agency subject to this chapter after July 1, 2006, is valid until its next renewal, unless otherwise suspended or revoked by the department.

[2006 c 265 § 306.]

43.215.260

License application — Issuance, renewal, duration.

Each agency shall make application for a license or renewal of license to the department on forms prescribed by the department. Upon receipt of such application, the department shall either grant or deny a license within ninety days. A license shall be granted if the agency meets the minimum requirements set forth in this chapter and the departmental requirements consistent with the [this] chapter, except that an initial license may be issued as provided in RCW 43.215.280. Licenses provided for in this chapter shall be issued for a period of three years. The licensee, however, shall advise the director of any material change in circumstances which might constitute grounds for reclassification of license as to category. The license issued under this chapter is not transferable and applies only to the licensee and the location stated in the application. For licensed family day care homes having an acceptable history of child care, the license may remain in effect for two weeks after a move.

[2006 c 265 § 307.]

43.215.270

License renewal.

If a licensee desires to apply for a renewal of its license, a request for a renewal shall be filed ninety days before the expiration date of the license. If the department has failed to act at the time of the expiration date of the license, the license shall continue in effect until such time as the department acts.

[2006 c 265 § 308.]

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43.215.280

Initial licenses.

The director may, at his or her discretion, issue an initial license instead of a full license, to an agency or facility for a period not to exceed six months, renewable for a period not to exceed two years, to allow such agency or facility reasonable time to become eligible for full license.

[2006 c 265 § 309.]

43.215.290

Probationary licenses.

(1) The department may issue a probationary license to a licensee who has had a license but is temporarily unable to comply with a rule or has been the subject of multiple complaints or concerns about noncompliance if:

(a) The noncompliance does not present an immediate threat to the health and well-being of the children but would be likely to do so if allowed to continue; and

(b) The licensee has a plan approved by the department to correct the area of noncompliance within the probationary period.

(2) A probationary license may be issued for up to six months, and at the discretion of the department it may be extended for an additional six months. The department shall immediately terminate the probationary license, if at any time the noncompliance for which the probationary license was issued presents an immediate threat to the health or well-being of the children.

(3) The department may, at any time, issue a probationary license for due cause that states the conditions of probation.

(4) An existing license is invalidated when a probationary license is issued.

(5) At the expiration of the probationary license, the department shall reinstate the original license for the remainder of its term, issue a new license, or revoke the original license.

(6) A right to an adjudicative proceeding shall not accrue to the licensee whose license has been placed on probationary status unless the licensee does not agree with the placement on probationary status and the department then suspends, revokes, or modifies the license.

[2006 c 265 § 310.]

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43.215.300

Licenses — Denial, suspension, revocation, modification, nonrenewal — Proceedings — Penalties.

(1) An agency may be denied a license, or any license issued pursuant to this chapter may be suspended, revoked, modified, or not renewed by the director upon proof (a) that the agency has failed or refused to comply with the provisions of this chapter or the requirements adopted pursuant to this chapter; or (b) that the conditions required for the issuance of a license under this chapter have ceased to exist with respect to such licenses. RCW 43.20A.205 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(2) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of any license under this chapter, the department's decision shall be upheld if it is supported by a preponderance of the evidence.

(3) The department may assess civil monetary penalties upon proof that an agency has failed or refused to comply with the rules adopted under this chapter or that an agency subject to licensing under this chapter is operating without a license except that civil monetary penalties shall not be levied against a licensed foster home. Monetary penalties levied against unlicensed agencies that submit an application for licensure within thirty days of notification and subsequently become licensed will be forgiven. These penalties may be assessed in addition to or in lieu of other disciplinary actions. Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day an agency is or was out of compliance. Civil monetary penalties shall not exceed seventy-five dollars per violation for a family day care home and two hundred fifty dollars per violation for child day care centers. Each day upon which the same or substantially similar action occurs is a separate violation subject to the assessment of a separate penalty. The department shall provide a notification period before a monetary penalty is effective and may forgive the penalty levied if the agency comes into compliance during this period. The department may suspend, revoke, or not renew a license for failure to pay a civil monetary penalty it has assessed pursuant to this chapter within ten days after such assessment becomes final. Chapter 43.20A RCW governs notice of a civil monetary penalty and provides the right of an adjudicative proceeding. The preponderance of evidence standard shall apply in adjudicative proceedings related to assessment of civil monetary penalties.

(4)(a) In addition to or in lieu of an enforcement action being taken, the department may place a child day care center or family day care provider on nonreferral status if the center or provider has failed or refused to comply with this chapter or rules adopted under this chapter or an enforcement action has

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been taken. The nonreferral status may continue until the department determines that: (i) No enforcement action is appropriate; or (ii) a corrective action plan has been successfully concluded.

(b) Whenever a child day care center or family day care provider is placed on nonreferral status, the department shall provide written notification to the child day care center or family day care provider.

(5) The department shall notify appropriate public and private child care resource and referral agencies of the department's decision to:

(a) Take an enforcement action against a child day care center or family day care provider; or

(b) place or remove a child day care center or family day care provider on nonreferral status.

[2006 c 265 § 311.]

43.215.310

Adjudicative proceedings — Training for administrative law judges.

(1) The office of administrative hearings shall not assign nor allow an administrative law judge to preside over an adjudicative hearing regarding denial, modification, suspension, or revocation of any license to provide child care under this chapter, unless such judge has received training related to state and federal laws and department policies and procedures regarding:

(a) Child abuse, neglect, and maltreatment;

(b) Child protective services investigations and standards;

(c) Licensing activities and standards;

(d) Child development; and

(e) Parenting skills.

(2) The office of administrative hearings shall develop and implement a training program that carries out the requirements of this section. The office of administrative hearings shall consult and coordinate with the department in developing the training program. The department may assist the office of administrative hearings in developing and providing training to administrative law judges.

[2006 c 265 § 312.]

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43.215.320

License or certificate suspension — Noncompliance with support order — Reissuance.

The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

[2006 c 265 § 313.]

43.215.330

Actions against agencies.

Notwithstanding the existence or pursuit of any other remedy, the director may, in the manner provided by law, upon the advice of the attorney general, who shall represent the department in the proceeding, maintain an action in the name of the state for injunction or such other relief as he or she may deem advisable against any agency subject to licensing under the provisions of this chapter or against any such agency not having a license as heretofore provided in this chapter.

[2006 c 265 § 314.]

43.215.340

Operating without a license — Penalty.

Any agency operating without a license shall be guilty of a misdemeanor. This section shall not be enforceable against an agency until sixty days after the effective date of new rules, applicable to such agency, have been adopted under this chapter.

[2006 c 265 § 315.]

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EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM

43.215.400

Early childhood education and assistance program — Intent.

It is the intent of the legislature to establish an early childhood state education and assistance program. This special assistance program is a voluntary enrichment program to help prepare some children to enter the common school system and shall be offered only as funds are available. This program is not a part of the basic program of education which must be fully funded by the legislature under Article IX, section 1 of the state Constitution.

[1994 c 166 § 1; 1985 c 418 § 1. Formerly RCW 28A.215.100, 28A.34A.010.]

Notes: Effective date -- 1994 c 166: "This act shall take 1effect July 1, 1994."

[1994 c 166 § 12.]

43.215.405

Early childhood education and assistance program — Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903.

(1) "Advisory committee" means the advisory committee under RCW 43.215.420.

(2) "Department" means the department of early learning.

(3) "Eligible child" means a child not eligible for kindergarten whose family income is at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services, and includes a child whose family is eligible for public assistance, and who is not a participant in a federal or state program providing comprehensive services and may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program. Priority for enrollment shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

(4) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 and are designated as eligible for funding by the department under RCW 43.215.430 and 43.215.440.

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(5) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(6) "Family support services" means providing opportunities for parents to:

- (a) Actively participate in their child's early childhood program;
- (b) Increase their knowledge of child development and parenting skills;
- (c) Further their education and training;
- (d) Increase their ability to use needed services in the community;
- (e) Increase their self-reliance.

[2006 c 265 § 210; 1999 c 350 § 1; 1994 c 166 § 2; 1990 c 33 § 213; 1988 c 174 § 2; 1985 c 418 § 2. Formerly RCW 28A.215.110, 28A.34A.020.]

Notes: Effective date -- 1994 c 166: See note following RCW 43.215.400.

Findings -- 1994 c 166; 1988 c 174: "The legislature finds that the early childhood education and assistance program provides for the educational, social, health, nutritional, and cultural development of children at risk of failure when they reach school age. The long-term benefits to society in the form of greater educational attainment, employment, and projected lifetime earnings as well as the savings to be realized, from lower crime rates, welfare support, and reduced teenage pregnancy, have been demonstrated through lifelong research of at-risk children and early childhood programs.

The legislature intends to encourage development of community partnerships for children at risk by authorizing a program of voluntary grants and contributions from business and community organizations to increase opportunities for children to participate in early childhood education." [1994 c 166 § 3; 1988 c 174 § 1.]

43.215.410

Early childhood education and assistance program — Admission and funding.

The department shall administer a state-supported early childhood education and assistance program to assist eligible children with educational, social, health, nutritional, and cultural development to enhance their opportunity for success in the common school system. Eligible children shall be admitted to approved early childhood programs to the extent that the legislature provides funds, and additional eligible children may be admitted to the extent that grants and contributions from community sources provide sufficient funds for a program equivalent to that supported by state funds.

[2006 c 265 § 211; 1994 c 166 § 4; 1988 c 174 § 3; 1985 c 418 § 3. Formerly RCW 28A.215.120, 28A.34A.030.]

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Notes: Effective date -- 1994 c 166: See note following RCW 43.215.400.

Findings -- 1994 c 166; 1988 c 174: See note following RCW 43.215.405.

43.215.415

Early childhood education and assistance program — Eligible providers — State-funded support — Requirements.

Approved early childhood programs shall receive state-funded support through the department. Public or private nonsectarian organizations, including, but not limited to school districts, educational service districts, community and technical colleges, local governments, or nonprofit organizations, are eligible to participate as providers of the state early childhood program. Funds appropriated for the state program shall be used to continue to operate existing programs or to establish new or expanded early childhood programs, and shall not be used to supplant federally supported head start programs. Funds obtained by providers through voluntary grants or contributions from individuals, agencies, corporations, or organizations may be used to expand or enhance preschool programs so long as program standards established by the department are maintained, but shall not be used to supplant federally supported head start programs or state-supported early childhood programs. Persons applying to conduct the early childhood program shall identify targeted groups and the number of children to be served, program components, the qualifications of instructional and special staff, the source and amount of grants or contributions from sources other than state funds, facilities and equipment support, and transportation and personal care arrangements.

[1994 c 166 § 5; 1988 c 174 § 4; 1985 c 418 § 4. Formerly RCW 28A.215.130, 28A.34A.040.]

Notes: Effective date -- 1994 c 166: See note following RCW 43.215.400.

Findings -- 1994 c 166; 1988 c 174: See note following RCW 43.215.405.

43.215.420

Early childhood education and assistance program — Advisory committee.

The department shall establish an advisory committee composed of interested parents and representatives from the office of the superintendent of public instruction, the division of children and family services within the department of social and health services, early childhood education and development staff preparation programs, the head start programs, school districts, and such other community and business organizations as deemed necessary by the department to assist with the establishment of the preschool program and advise the department on matters regarding the on-going promotion and operation of the program.

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[2006 c 263 § 413; 1988 c 174 § 5; 1985 c 418 § 5. Formerly RCW 28A.215.140, 28A.34A.050.]

Notes: Findings -- Purpose -- Part headings not law -- 2006 c 263: See notes following RCW 28A.150.230.

Findings -- 1994 c 166; 1988 c 174: See note following RCW 43.215.405.

43.215.425

Early childhood education and assistance program — Rules.

The department shall adopt rules under chapter 34.05 RCW for the administration of the early childhood program. Approved early childhood programs shall conduct needs assessments of their service area, identify any targeted groups of children, to include but not be limited to children of seasonal and migrant farmworkers and native American populations living either on or off reservation, and provide to the department a service delivery plan, to the extent practicable, that addresses these targeted populations.

The department in developing rules for the early childhood program shall consult with the advisory committee, and shall consider such factors as coordination with existing head start and other early childhood programs, the preparation necessary for instructors, qualifications of instructors, adequate space and equipment, and special transportation needs. The rules shall specifically require the early childhood programs to provide for parental involvement in participation with their child's program, in local program policy decisions, in development and revision of service delivery systems, and in parent education and training.

[1994 c 166 § 6; 1988 c 174 § 6; 1987 c 518 § 101; 1985 c 418 § 6. Formerly RCW 28A.215.150, 28A.34A.060.]

Notes: Effective date -- 1994 c 166: See note following RCW 43.215.400.

Findings -- 1994 c 166; 1988 c 174: See note following RCW 43.215.405.

Intent -- 1994 c 166; 1987 c 518: "The long-term social, community welfare, and economic interests of the state will be served by an investment in our children. Conclusive studies and experiences show that providing children with developmental experiences and providing parents with effective parental partnership, empowerment, opportunities for involvement with their child's developmental learning, and expanding parenting skills, learning, and training can greatly improve children's performance in school as well as increase the likelihood of children's success as adults. National studies have also confirmed that special attention to, and educational assistance for, children, their school environment, and their families are the most effective ways in which to meet the state's social and economic goals.

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The legislature intends to enhance the readiness to learn of certain children and students by: Providing for an expansion of the state early childhood education and assistance program for children from low-income families and establishing an adult literacy program for certain parents; assisting school districts to establish elementary counseling programs; instituting a program to address learning problems due to drug and alcohol use and abuse; and establishing a program directed at students who leave school before graduation.

The legislature intends further to establish programs that will allow for parental, business, and community involvement in assisting the school systems throughout the state to enhance the ability of children to learn." [1994 c 166 § 7; 1987 c 518 § 1.]

Severability -- 1987 c 518: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

[1987 c 518 § 411.]

43.215.430

Early childhood education and assistance program — Review of applications — Award of funds.

The department shall review applications from public or private nonsectarian organizations for state funding of early childhood education and assistance programs and award funds as determined by department rules and based on local community needs and demonstrated capacity to provide services.

[1994 c 166 § 8; 1988 c 174 § 7; 1985 c 418 § 7. Formerly RCW 28A.215.160, 28A.34A.070.]

Notes: Effective date -- 1994 c 166: See note following RCW 43.215.400.

Findings -- 1994 c 166; 1988 c 174: See note following RCW 43.215.405.

43.215.435

Early childhood education and assistance program — Reports.

The department shall annually report to the governor and the legislature on the findings of the longitudinal study undertaken to examine and monitor the effectiveness of early childhood educational and assistance services for eligible children to measure, among other elements, if possible, how the average level of performance of children completing this program compare to the average level of performance of all state students in their grade level, and to the average level of performance of those eligible students who did not have access to this program.

The evaluation system shall examine how the percentage of these children needing access to special education or remedial programs compares to the overall percentage of children needing such services and compares to the

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percentage of eligible students who did not have access to this program needing such services.

[1995 c 335 § 501; 1994 c 166 § 9; 1988 c 174 § 8; 1985 c 418 § 8. Formerly RCW 28A.215.170, 28A.34A.080.]

Notes: Part headings, table of contents not law -- 1995 c 335: See note following RCW 28A.150.360.

Effective date -- 1994 c 166: See note following RCW 43.215.400.

Findings -- 1994 c 166; 1988 c 174: See note following RCW 43.215.405.

43.215.440

Early childhood education and assistance program — State support — Priorities — Program funding levels.

For the purposes of *RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908, the department may award state support under *RCW 28A.215.100 through 28A.215.160 to increase the numbers of eligible children assisted by the federal or state-supported early childhood programs in this state. Priority shall be given to those geographical areas which include a high percentage of families qualifying under the "eligible child" criteria. The overall program funding level shall be based on an average grant per child consistent with state appropriations made for program costs: PROVIDED, That programs addressing special needs of selected groups or communities shall be recognized in the department's rules.

[1994 c 166 § 10; 1990 c 33 § 214; 1987 c 518 § 102; 1985 c 418 § 9.

Formerly RCW 28A.215.180, 28A.34A.090.]

Notes: *Reviser's note: RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908 were recodified as RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 pursuant to 2006 c 265 § 601, effective July 1, 2006.

Effective date -- 1994 c 166: See note following RCW 43.215.400.

Intent -- 1994 c 166; 1987 c 518: See note following RCW 43.215.425.

Severability -- 1987 c 518: See note following RCW 43.215.425.

43.215.445

Early childhood education and assistance program — Reimbursement of advisory committee expenses.

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The department from funds appropriated for the administration of the program under chapter 418, Laws of 1985 shall reimburse the expenses of the advisory committee.

[1985 c 418 § 10. Formerly RCW 28A.215.190, 28A.34A.100.]

43.215.450

Early childhood education and assistance program — Authority to solicit gifts, grants, and support.

The department may solicit gifts, grants, conveyances, bequests and devises for the use or benefit of the early childhood state education and assistance program established by *RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908. The department shall actively solicit support from business and industry and from the federal government for the state early childhood education and assistance program and shall assist local programs in developing partnerships with the community for eligible children.

[1994 c 166 § 11; 1990 c 33 § 215; 1988 c 174 § 9; 1985 c 418 § 11. Formerly RCW 28A.215.200, 28A.34A.110.]

Notes: *Reviser's note: RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908 were recodified as RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 pursuant to 2006 c 265 § 601, effective July 1, 2006.

Effective date -- 1994 c 166: See note following RCW 43.215.400.

Findings -- 1994 c 166; 1988 c 174: See note following RCW 43.215.405.

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CHILD CARE

43.215.500

Child care workers — Findings — Intent.

The legislature finds that as of 2000, child care workers in the state earned an average hourly wage of eight dollars and twenty-two cents, only fifty-eight percent received medical insurance through employers, only sixty-six percent received paid sick leave, and only seventy-three percent received paid vacation. The legislature further finds that low wages for child care workers create a barrier for individuals entering the profession, result in child care workers leaving the profession in order to earn a living wage in another profession, and make it difficult for child care workers to afford professional education and training. As a result, the availability of quality child care in the state suffers.

The legislature intends to increase wages to child care workers through establishing a child care career and wage ladder that provides increased wages for child care workers based on their work experience, level of responsibility, and education. To the extent practicable within available funds, this child care career and wage ladder shall mirror the successful child care career and wage ladder pilot project operated by the state between 2000 and 2003. While it is the intent of the legislature to establish the vision of a statewide child care career and wage ladder that will enhance employment quality and stability for child care workers, the legislature also recognizes that funding allocations will determine the extent of statewide implementation of a child care career and wage ladder.

[2005 c 507 § 1. Formerly RCW 74.13.097.]

43.215.505

Child care workers — Career and wage ladder.

(1) Subject to the availability of funds appropriated for this specific purpose, the department shall establish a child care career and wage ladder in licensed child care centers that meet the following criteria:

- (a) At least ten percent of child care slots are dedicated to children whose care is subsidized by the state or any political subdivision thereof or any local government;
- (b) the center agrees to adopt the child care career and wage ladder, which, at a minimum, shall be at the same pay schedule as existed in the previous child care career and wage ladder pilot project; and
- (c) the center meets further program standards as established by rule pursuant to *section 4, chapter 507, Laws of 2005.

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The child care career and wage ladder shall include wage increments for levels of education, years of relevant experience, levels of work responsibility, relevant early childhood education credits, and relevant requirements in the state training and registry system.

(2) The department shall establish procedures for the allocation of funds to implement the child care career and wage ladder among child care centers meeting the criteria identified in subsection (1) of this section. In developing these procedures, the department shall:

- (a) Review past efforts or administration of the child care career and wage ladder pilot project in order to take advantage of any findings, recommendations, or administrative practices that contributed to that pilot project's success;

- (b) Consult with stakeholders, including organizations representing child care teachers and providers, in developing an allocation formula that incorporates consideration of geographic and demographic distribution of child care centers adopting the child care career and wage ladder; and

- (c) Develop a system for prioritizing child care centers interested in adopting the child care career and wage ladder that is based on the criteria identified in subsection (1) of this section.

(3) Notwithstanding the requirements of subsection (2) of this section, child care centers meeting the criteria in subsection (1) of this section located in urban areas of the department of social and health services region one shall receive a minimum of fifteen percent of the funds allocated through the child care career and wage ladder, and of these centers, child care centers meeting the criteria in subsection (1) of this section participating in the Spokane tiered reimbursement pilot project shall have first priority for child care career and wage ladder funding.

[2006 c 265 § 205; 2005 c 507 § 2. Formerly RCW 74.13.098.]

Notes: *Reviser's note: Section 4 of this act was vetoed by the governor.

43.215.510

Child care workers — Career and wage ladder — Wage increases.

Child care centers adopting the child care career and wage ladder established pursuant to RCW 43.215.505 shall increase wages for child care workers who have earned a high school diploma or GED certificate, gain additional years of experience, or accept increasing levels of responsibility in providing child care, in accordance with the child care career and wage ladder. The adoption of a child care career and wage ladder shall not prohibit the provision of wage increases based upon merit. The department shall pay wage increments for child care workers employed by child care centers adopting the child care career and wage ladder established pursuant to RCW 43.215.505 who earn early childhood

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education credits or meet relevant requirements in the state training and registry system, in accordance with the child care career and wage ladder.

[2006 c 265 § 206; 2005 c 507 § 3. Formerly RCW 74.13.099.]

43.215.520

Child day-care centers, family day-care providers — Toll-free information number.

(1) The department shall establish and maintain a toll-free telephone number, and an interactive web-based system through which persons may obtain information regarding child day-care centers and family day-care providers. This number shall be available twenty-four hours a day for persons to request information. The department shall respond to recorded messages left at the number within two business days. The number shall be published in reasonably available printed and electronic media. The number shall be easily identifiable as a number through which persons may obtain information regarding child day-care centers and family day-care providers as set forth in this section.

(2) Through the toll-free telephone line established by this section, the department shall provide information to callers about:

- (a) Whether a day-care provider is licensed;
- (b) whether a day-care provider's license is current;
- (c) the general nature of any enforcement against the providers;
- (d) how to report suspected or observed noncompliance with licensing requirements;
- (e) how to report alleged abuse or neglect in a day care;
- (f) how to report health, safety, and welfare concerns in a day care;
- (g) how to receive follow-up assistance, including information on the office of the family and children's ombudsman; and
- (h) how to receive referral information on other agencies or entities that may be of further assistance to the caller.

(3) Beginning in January 2006, the department shall print the toll-free number established by this section on the face of new licenses issued to child day-care centers and family day-care providers.

(4) This section shall not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.56 RCW.

[2006 c 209 § 10; 2005 c 473 § 3. Formerly RCW 74.15.310.]

Notes: Effective date -- 2006 c 209: See RCW 42.56.903.

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Purpose -- 2005 c 473: See note following RCW 74.15.300.

43.215.525

Child day-care centers, family day-care providers — Required postings — Disclosure of complaints.

(1) Every child day-care center and family day-care provider shall prominently post the following items, clearly visible to parents and staff:

- (a) The license issued under this chapter;
- (b) The department's toll-free telephone number established by *RCW 74.15.310;
- (c) The notice of any pending enforcement action. The notice must be posted immediately upon receipt. The notice must be posted for at least two weeks or until the violation causing the enforcement action is corrected, whichever is longer;
- (d) A notice that inspection reports and any notices of enforcement actions for the previous three years are available from the licensee and the department; and
- (e) Any other information required by the department.

(2) The department shall disclose, upon request, the receipt, general nature, and resolution or current status of all complaints on record with the department after July 24, 2005, against a child day-care center or family day-care provider that result in an enforcement action. This section shall not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.56 RCW.

[2006 c 209 § 11; 2005 c 473 § 4. Formerly RCW 74.15.320.]

Notes: *Reviser's note: RCW 74.15.310 was recodified as RCW 43.215.520 pursuant to 2006 c 265 § 601, effective July 1, 2006.

Effective date -- 2006 c 209: See RCW 42.56.903.

Purpose -- 2005 c 473: See note following RCW 74.15.300.

43.215.530

Child day-care centers, family day-care providers — Public access to reports and enforcement action notices.

(1) Every child day-care center and family day-care provider shall have readily available for review by the department, parents, and the public a copy of each inspection report and notice of enforcement action received by the center or provider from the department for the past three years. This subsection only applies to reports and notices received on or after July 24, 2005.

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(2) The department shall make available to the public during business hours all inspection reports and notices of enforcement actions involving child day-care centers and family day-care providers consistent with chapter 42.56 RCW. The department shall include in the inspection report a statement of the corrective measures taken by the center or provider.

[2006 c 209 § 12; 2005 c 473 § 5. Formerly RCW 74.15.330.]

Notes: Effective date -- 2006 c 209: See RCW 42.56.903.

Purpose -- 2005 c 473: See note following RCW 74.15.300.

43.215.535

Day-care insurance.

(1) Every licensed child day-care center shall, at the time of licensure or renewal and at any inspection, provide to the department proof that the licensee has day-care insurance as defined in RCW 48.88.020, or is self-insured pursuant to chapter 48.90 RCW.

(a) Every licensed child day-care center shall comply with the following requirements:

- (i) Notify the department when coverage has been terminated;
- (ii) Post at the day-care center, in a manner likely to be observed by patrons, notice that coverage has lapsed or been terminated;
- (iii) Provide written notice to parents that coverage has lapsed or terminated within thirty days of lapse or termination.

(b) Liability limits under this subsection shall be the same as set forth in RCW 48.88.050.

(c) The department may take action as provided in RCW 74.15.130 if the licensee fails to maintain in full force and effect the insurance required by this subsection.

(d) This subsection applies to child day-care centers holding licenses, initial licenses, and probationary licenses under this chapter.

(e) A child day-care center holding a license under this chapter on July 24, 2005, is not required to be in compliance with this subsection until the time of renewal of the license or until January 1, 2006, whichever is sooner.

(2)(a) Every licensed family day-care provider shall, at the time of licensure or renewal either:

- (i) Provide to the department proof that the licensee has day-care insurance as defined in RCW 48.88.020, or other applicable insurance; or

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(ii) Provide written notice of their insurance status to parents with a child enrolled in family day care. Family day-care providers may choose to opt out of the requirement to have day care or other applicable insurance but must provide written notice of their insurance status to parents with a child enrolled and shall not be subject to the requirements of (b), (c), or (d) of this subsection.

(b) Any licensed family day-care provider that provides to the department proof that the licensee has insurance as provided under (a)(i) of this subsection shall comply with the following requirements:

(i) Notify the department when coverage has been terminated;

(ii) Post at the day-care home, in a manner likely to be observed by patrons, notice that coverage has lapsed or been terminated;

(iii) Provide written notice to parents that coverage has lapsed or terminated within thirty days of lapse or termination.

(c) Liability limits under (a)(i) of this subsection shall be the same as set forth in RCW 48.88.050.

(d) The department may take action as provided in RCW 74.15.130 if the licensee fails to notify the department when coverage has been terminated as required under (b) of this subsection.

(e) A family day-care provider holding a license under this chapter on July 24, 2005, is not required to be in compliance with this subsection until the time of renewal of the license or until January 1, 2006, whichever is sooner.

(3) Noncompliance or compliance with the provisions of this section shall not constitute evidence of liability or nonliability in any injury litigation.

[2005 c 473 § 7. Formerly RCW 74.15.340.]

Notes: Purpose -- 2005 c 473: See note following RCW 74.15.300.

43.215.540

Child care providers — Tiered-reimbursement system — Pilot sites.

(1) Subject to the availability of amounts appropriated for this specific purpose, the department shall implement the tiered-reimbursement system developed pursuant to section 6, chapter 490, Laws of 2005. Implementation of the tiered-reimbursement system shall initially consist of two pilot sites in different geographic regions of the state with demonstrated public-private partnerships, with statewide implementation to follow.

(2) In implementing the tiered-reimbursement system, consideration shall be given to child care providers who provide staff wage progression.

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(3) The department shall begin implementation of the two pilot sites by March 30, 2006.

[2006 c 265 § 207; 2005 c 490 § 7. Formerly RCW 74.15.350.]

Notes: Effective date -- 2005 c 409: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 16, 2005]." [2005 c 490 § 15.]

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TECHNICAL PROVISIONS

43.215.900

Early childhood education and assistance program — Short title — 1985 c 418.

This act shall be known as the early childhood assistance act of 1985.

[1985 c 418 § 13. Formerly RCW 28A.215.900, 28A.34A.904.]

43.215.901

Contingency — Effective date — 1985 c 418.

If specific funding for the purposes of this act, referencing this act by bill number, is not provided by the legislature by July 1, 1987, this act shall be null and void.

This act shall be of no effect until such specific funding is provided. If such funding is so provided, this act shall take effect when the legislation providing the funding takes effect.

[1985 c 418 § 12. Formerly RCW 28A.215.904, 28A.34A.900.]

Notes: Reviser's note: (1) 1986 c 312 § 211 provides specific funding for the purposes of this act. (2) 1986 c 312 took effect April 4, 1986.

43.215.902

Severability — 1985 c 418.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1985 c 418 § 14. Formerly RCW 28A.215.906, 28A.34A.906.]

43.215.903

Severability — 1988 c 174.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1988 c 174 § 11. Formerly RCW 28A.215.908, 28A.34A.908.]

43.215.904

Part headings not law — 2006 c 265.

Part headings used in this act are not any part of the law.

[2006 c 265 § 602.]

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43.215.905

Effective date — 2006 c 265.

This act takes effect July 1, 2006.

[2006 c 265 § 604.]

43.215.906

Severability — 2006 c 265.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[2006 c 265 § 605.]

43.215.907

Evaluation of department by joint legislative audit and review committee.

By July 1, 2010, the joint legislative audit and review committee shall conduct an evaluation of the implementation and operation of the department of early learning to assess the extent to which:

- (1) Services and programs that previously were administered separately have been effectively integrated;
- (2) Reporting and monitoring activities have been consolidated and made more efficient;
- (3) Consolidation has resulted in administrative efficiencies within the department;
- (4) Child care and early learning services are improved;
- (5) Subsidized child care is available;
- (6) Subsidized child care is affordable;
- (7) The department has been an effective partner in the private-public partnership;
- (8) Procedures have been put in place to respect parents and legal guardians and provide them the opportunity to participate in the development of policies and program decisions affecting their children; and
- (9) The degree and methods by which the agency conducts parent outreach and education.

[2006 c 265 § 507.]